Wiretap Issue

Lawyers Accuse Kleindienst of Lying in Court

By Paul Avery

Former Attorney General Richard G. Kleindienst was accused yesterday of lying under oath in testimony he gave in a San Diego courtroom last November, The Chronicle has learned.

The allegation of perjury against the Nixon administration cabinet member was made by two San Francisco lawyers in documents filed in U.S. District Court in San Diego.

Attorneys John F. Brittain and Philip Scott Ryan filed what is legally termed an "application for an order to show cause why Richard Kleindienst should not be held in contempt."

The documents they filed accuse Kleindienst not only of giving false testimony, but of obstructing justice and refusing to produce court-ordered records necessary for the defense of a criminal case in which the two lawyers were involved.

Kleindienst told The Chronicle he would have no comment on the allegations until he receives the documents and has time to study them.

Kleindienst was subpoenaed by the San Francisco lawyers to testify concerning a wiretap order he had signed allowing federal customs agents to listen in on telephone conversations of Manuel Abascal, 27, then a Diablo Valley College student suspected of drug dealings.

Abascal and several other persons were arrested in March, 1973, and Brittain and Ryan, in preparing Abascal's defense, learned of the wiretap order, which the government contended was authorized by Kleindienst on Jan. 9, 1973.

"Because of a long history of questionable and illegal practices engaged in by the Department of Justice with respect to wiretapping," the attorneys state in the documents, they sought to question Kleindienst about his signing of the order.

Last November, the federal judge hearing pretrial motions in the case approved issuance of a subpoena and further ordered that Kleindienst — who had by then resigned as attorney general — bring with him "any logs, documents or other objects" which would prove his whereabouts in early January, 1973.

KLEINDIENST
Ex-attorney general

The attorneys say they suspected Kleindienst may not have been in Washington on January 9, and that the wiretap order may have been signed later and back-dated, possibly rendering it illegal.

When Kleindienst appeared in court last November 29, attorney Brittain asked him if he had any of the subpoena-ordered records with him. A transcript shows Kleindienst answered:

"No. I haven't. The log that I had is in the possession of the Ervin Watergate committee. It wasn't available to me."

The attorneys say they subsequently learned that:

● Prior to his Aug. 6, 1973, appearance before the Senate Select Committee on Presidential Campaign Activities, Kleindienst turned over subpoenaed logs, records and other documents to R. Phillip Haire, an assistant counsel on the Watergate committee.

● Shortly after Kleindienst testified before the Watergate committee, Haire claimed he personally handed over the Kleindienst documents to a staff aide and told him to hand-deliver the records back to the former attorney general's office in Washington.

● The staff aide, Brent McKnight, says he carried out those orders.

Brittain and Ryan contend their investigation into the records Kleindienst in November, 1973, said were still with the Watergate committee, had in fact been returned to him more than three months earlier.

"Mr. Kleindienst, for reasons unknown to us, lied under oath," Ryan said yesterday.

Kleindienst was appointed by former President Nixon to the post of attorney general in 1972, succeeding John Mitchell. He served until April, 1973.

Last May 16, Kleindienst pleaded guilty to a misdemeanor charge of refusing to answer questions put to him by members of the Senate Judiciary Committee, during his confirmation hearings, in 1972.

Kleindienst received a 30-day jail term, sentence suspended, last June 7.